

DEPARTMENT OF MARINE RESOURCES

CHAPTER 41

MENHADEN

TITLE INDEX

41.05	Territorial Waters Trawl Prohibition
41.10	Recreational Fishery
41.20	Permits and Reporting
41.30	Menhaden Fishery Management Program

DEPARTMENT OF MARINE RESOURCES

CHAPTER 41

41.05 Territorial Waters Trawl Prohibition

It is unlawful to fish for or take Atlantic menhaden by vessels rigged with a midwater, otter or beam trawl net in Maine territorial waters.

41.10 Recreational Fishery

An individual may fish or take by hook and line up to 25 menhaden per day for personal use only.

41.15 Small Scale Personal Use No-sale Permit

An individual licensed under §6502-A may fish for or take, by bait gillnet only, three barrels of menhaden per calendar day with a permit issued by, and under the conditions of, the Commissioner of Marine Resources for the taking of menhaden during the period of June 1 to December 31. Permit requests must be received by May 15, annually.

The holder of this permit will relinquish both the right to use any gear other than a bait gillnet when fishing for menhaden and the right to sell menhaden taken under their Commercial Pelagic and Anadromous License for the duration of the harvest season. Daily reporting of landings is required when fishing during the quota fisheries and weekly reporting is required during the small scale fishery as outlined in Chapter 8.20(Q). Any violation of this regulation shall be cause for suspension of permit.

41.20 Permits and Reporting

Menhaden Harvester Permit

All harvesters must report landings daily to the Department via an approved electronic reporting option on the same day as landing menhaden.

Exception: Daily reporting is not required for the Small Scale Fishery as described in 41.30 (4). Weekly electronic reporting remains a requirement.

Harvesters: See Chapter 8.20(Q) and 8.20(M)

Dealers: See Chapter 8.10 Landings Program

41.30 Menhaden Fishery Management Program

1. Definitions

A. Hogshead: one hogshead equals 17.5 lb bushels.

- B. Bushel: one bushel equals 70 lbs of menhaden.
- C. Barrel: one barrel equals 55 liquid gallons; or, 5 bushel of menhaden.
- D. Truck: one truck equals 40,000 lbs of menhaden.
- C. Fish tote: a standard fish tote (tray), measuring 28 inches long x 16 inches wide x 11 inches deep, when level full, equals 1/3 barrel.
- D. Crate: a crate equals two and one half bushels or 175 pounds of menhaden
- E. Landing: to come to shore, float or a dock and offload menhaden
- F. Dory: a boat with no mechanical means of propulsion that is towed to and from the fishing grounds by the harvester vessel. A dory may be used by a harvester vessel to transport menhaden the harvester vessel has taken.
- G. Harvester vessel: the exclusive vessel that deploys the net to fish for, take and possess menhaden.
- H. Carrier vessel: a vessel that is not rigged to fish and is transporting to shore that was caught by a harvester vessel.

2. State Allocation Fishery

A. Notice

The state allocation fishery is open until such time as the Department has landings information that the quota assigned to Maine by the Atlantic States Marine Fisheries Commission has been reached or could be exceeded. At that time, the Department will notify Commercial Pelagic and Anadromous license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the closing date for the state allocation fishery. It is unlawful to fish for menhaden after the closing date of the state allocation fishery, unless the Department has opened the episodic event fishery, or the incidental catch and small scale fishery.

The Commissioner may extend or reopen the State Allocation Fishery at any time with notice to Commercial Pelagic and Anadromous license holders, should a quota increase or quota transfer of menhaden be received via allocation adjustments of the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Atlantic Menhaden.

B. Effort restrictions

During the state allocation fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. Following the opening of the state allocation fishery, and prior to the closure of the state allocation fishery, it is unlawful to fish for or land menhaden except between 12:01 AM on Monday to 11:59 PM on Tuesday and 12:01 AM on Thursday to 11:59 PM on Friday each week. It is unlawful to fish for, take, or possess more than 120,000 lbs per vessel per calendar day and it is unlawful to fish for, take or possess more than 160,000 lbs per vessel per week. It is unlawful to make a transfer at sea except to a vessel licensed to carry under 12. M.R.S. §6502-B. It is unlawful to transfer at sea to more than two carrier vessels per calendar day. It is unlawful to complete more than one landing per calendar day. For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1).

Exception: Fishing weirs, stop seines, and pound nets are not subject to the harvest schedule detailed above. However, daily and weekly landing limits still apply.

3. Episodic Event Fishery

Following authorization by the Atlantic States Marine Fisheries Commission, the Department may open an episodic event fishery following the closing of the state allocation fishery.

A. Notice

The Department will notify Commercial Pelagic and Anadromous license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the opening date for the episodic event fishery. When the Department receives notice from the Atlantic States Marine Fisheries Commission that the quota for the episodic event fishery has been reached or may be exceeded, the Department will notify Commercial Pelagic and Anadromous license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the closing date for the episodic event fishery.

B. Effort restrictions

During the episodic event fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. Following the opening of an episodic event fishery, and prior to the closure of the episodic event fishery, it is unlawful to fish for or land menhaden except on Mondays between 12:01 AM to 11:59 PM and Thursdays between 12:01 AM to 11:59 PM. It is unlawful to fish for, take, or possess more than 6,000 lbs per vessel per calendar day. It is unlawful to complete more than one landing per calendar day. For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1).

Exception: Fishing weirs, stop seines, and pound nets are not subject to the harvest schedule detailed above. However, daily and weekly landing limits still apply.

4. Incidental Catch and Small Scale Fishery

An incidental catch and small scale fishery for menhaden may occur following the full utilization of the state allocation of menhaden or following the full utilization of both the state allocation and an episodic event fishery.

A. Notice

The Department will notify Commercial Pelagic and Anadromous license holders by public notice in a newspaper circulated in the area affected, and on the Department's publicly accessible website, of the opening date for the incidental catch and small scale fishery.

B. Effort Restrictions

During the incidental catch and small scale fishery, it is unlawful to fish for, take, possess, or land menhaden except from Maine's territorial waters. It is unlawful to fish for, take, possess or land more than 6,000 lbs per vessel per day. It is unlawful to make more than one landing per calendar day. For the purpose of enforcing these limitations, the Department shall use the definitions provided in 41.30 (1), except that it is unlawful during the incidental catch and

small scale fishery for a harvester vessel to sell, give or transfer, menhaden they have taken to any other vessel while at sea. It is unlawful to receive menhaden from a harvester vessel while at sea.

C. Gear Restrictions

It is unlawful to use any gear type other than the following when targeting menhaden: cast nets, traps, pots, haul seines, fyke nets, hook and line, bag nets, hoop nets, hand lines, trammel nets, bait nets and purse seines which are smaller than 150 fathom long and 8 fathom deep. The depth of the net will be determined by taking the average size of 20 meshes and then counting the total number of meshes by depth.

Harvesters may take menhaden as incidental catch when targeting another species using the following gear types: pound nets, drift gill nets, trawls, fishing weirs, fyke nets and floating fish traps.

D. Storage Requirement

All menhaden must immediately be stored in barrels, crates or fish totes, or a combination thereof, upon harvest. All menhaden must be contained in barrels, crates or fish totes on both the harvester vessel and the dory towed by the harvester vessel, if utilized.

5. Areas

A. Bald Head Cliff to Cape Arundel

Shoreward and westerly of a straight line starting at the easternmost point of Bald Head Cliff, Ogunquit to the southernmost point of Cape Arundel, Kennebunkport.

B. Biddeford Pool to Cape Elizabeth

Shoreward and westerly of the territorial sea line, as identified on National Oceanic and Atmospheric Administration nautical chart 13286, starting at the easternmost point of Biddeford Pool, Biddeford following the territorial sea line to where the line intersects the southernmost point of land in Cape Elizabeth.

C. All Maine territorial waters outside the areas defined in Chapter 41.30 (5)(A) & (B)

Shoreward of the territorial sea line, as identified on National Oceanic and Atmospheric Administration nautical charts, except for those areas defined in Chapter 41.30 (5)(A) & (B).

6. Area Limitations

A. Limitations in all Areas A, B & C

(1) It shall be unlawful for any harvester vessel targeting menhaden that exceeds 50 feet in length overall (LOA) to fish for, take or possess menhaden within these restricted areas.

(2) It shall be unlawful for any carrier vessel to possess or land more than 120,000 lbs of menhaden per day (00:01 AM to 11:59 PM) harvested from Maine Territorial waters, which includes Areas A, B & C.

(3) It shall be unlawful for any carrier vessel greater than 90 feet LOA to transport menhaden harvested from Areas A, B & C. Any carrier vessel greater than 70 feet but not to exceed

90 feet LOA must be measured, plainly marked at a maximum 120,000 lbs capacity or equivalent volume; or marked at the maximum vessel capacity if under 120,000 lbs, and sealed* by the State Sealer of Weights and Measures.

*Sealed means receipt of the applicable Fish Carrier Calibration Report and sticker, seal or appropriate marking affixed by the State Sealer of Weights and Measures or their designee. This documentation must be obtained prior to transporting menhaden taken from these areas.

7. Carrier Vessels

- A. A carrier vessel may transport and land menhaden once per calendar day at a limit of 120,000 lbs.
- B. A carrier vessel is prohibited from possessing fish that it did not catch during the Incidental and Small Scale fishery.
- C. A carrier vessel is prohibited from making a transfer at sea to another vessel.

8. Suspension of rules

The Commissioner has the authority to suspend all regulations in Chapter 41.30 in the event of a potential fish kill upon consultation with industry and Marine Patrol. Notice of rule suspension and duration shall be provided via the internet on the Department's web site and by email to industry members or telephone.

INDEX

EFFECTIVE DATE:

May 2, 1982 – Section 41.01 with December 31, 1983 sunset provision

AMENDED

July 20, 2009 – Section 05

September 20, 2010 – Section 30

July 23, 2012 - Section 30

June 6, 2013 – Section 30 EMERGENCY (expires September 4, 2013)

July 25, 2013 – Section 30

July 31, 2016 – Section 30 EMERGENCY

August 5, 2016 – Section 30 (1) EMERGENCY (expires November 3, 2016)

August 15, 2016 – Section (30) EMERGENCY (expires November 13, 2016)

June 3, 2017 -Section 41.30 repealed and replaced (EMERGENCY)

June 8, 2017 -Chapter repealed and replaced (EMERGENCY)

July 3, 2017 - Section 41.30 (EMERGENCY)

September 30, 2017 – Section 41.30 (EMERGENCY)

April 28, 2018 – Sections 41.05, & 41.30

September 15, 2018-Section 41.03(B) EMERGENCY

March 13, 2019-Section 41.10, 41.20 and 41.30

July 14, 2019-Section 41.30(3) EMERGENCY

July 21, 2019-Section 41.30(2) EMERGENCY

November 13, 2019-Section 41.20(1)&(2)

March 15, 2020-